

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW
COMMISSION**

BERNARDO CAMPA
APPELLANT,

CASE NO: 23R 0048

V.

ADAMS COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE ADAMS COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Adams County, parcel number 010014386.
2. The Adams County Assessor (the County Assessor) assessed the Subject Property at \$154,018 for tax year 2023.
3. Bernardo Campa (the Taxpayer) protested this value to the Adams County Board of Equalization (the County Board) and requested an assessed value of \$84,726 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$102,539 for tax year 2023.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on February 23, 2024, at Administration Building, first floor, 121 S. Pine Street, County Board Room, Grand Island, NE, before Commissioner James D. Kuhn.
7. Bernardo Campa was present at the hearing for the Taxpayer.
8. Shannon Bird (the Appraiser) was present for the County Board.

II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When considering an appeal, a presumption exists that the "board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action."³ That presumption "remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."⁴
12. The order, decision, determination, or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁵
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019, 759 N.W.2d 464, 473 (2009).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.* at 283-84.

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Taxpayer stated he purchased the Subject Property for \$39,000 in 2019 and feels the large increase in value for the 2023 tax year was exorbitant. The Taxpayer stated he purchased the Subject Property because it was a price he could afford due to the need for repairs.
17. The Taxpayer stated he invested around \$15,000 in repairs to the Subject Property. The Taxpayer stated he installed the cheapest carpet and flooring. The Taxpayer stated the Subject Property has bowing floors as well as cracks in the walls on both the interior and exterior and provided photos as evidence. The Taxpayer stated the furnace is old and needs replaced.
18. The Appraiser stated the purchase of the Subject Property was a private sale and that the Subject Property was unlivable and in need of many repairs. The Appraiser stated an improvement statement was filled out for planned repairs to the Subject Property in June of 2019. The Appraiser attempted to inspect the Subject Property in tax year 2019 to see the extent of repairs that were done, no one was home at the time of inspection and a door hanger was left requesting a call back from the Taxpayer, no call back was made so the Appraiser estimated the extent to which work was complete as the home was occupied and no longer unlivable. An inspection was ultimately performed for the

⁷ *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

2021 tax year appeal where the Appraiser found the Taxpayer had installed new bathrooms, new kitchen, flooring, fixed plasterwork and repaired or replaced the heating system.

19. The Appraiser stated a revaluation of the Subject Property's neighborhood was done for the 2023 tax year. At the protest meeting for 2023, the Appraiser agreed the condition of the Subject Property should be lowered and adjust the value of the detached garage to a salvage value of \$1 per square foot.
20. The Taxpayer has not demonstrated the Assessor's assignment of a "V Poor" condition rating for the Subject Property was arbitrary or unreasonable.
21. The Appraiser stated the resulting Subject Property value of \$102,539 would better reflect market value and be equalized with other properties in the neighborhood. The County Board ultimately adopted the Appraiser's revised value of \$102,539.
22. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
23. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2023 is affirmed.
2. The taxable value of the Subject Property for tax year 2023 is:

Total **\$102,539**

3. This Decision and Order, if no further action is taken, shall be certified to the Adams County Treasurer and the Adams County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax year 2023.
7. This Decision and Order is effective on July 12, 2024.

Signed and Sealed: July 12, 2024



James D. Kuhn, Commissioner